App. F. IX-4

Previous References

1928.
Loans)

File No. 23-78

Serial Nos. 1—9

Later References
Loans 93-31.

General and Revenue Secretariat.

SUBJECT

Appeal against a judgment & decree
in O.S. No. 8 of 23-11 of the file of the Sub
ordinate Judge, Shimoga (Suggestion to
Government as to the Advocate's

G.O. No. P. 7060-29 & 5-10-28

To the Govt Adv
of Court
Mysore Co

Authorise the Govt
Advocate to prefer an appeal to the Privy

GENERAL AND REVENUE SECRETARIAT.

NOTES.

File No. 23

FILE HEADING.

Public Prosecutor Shimla

No. 60 Dated 19.8.28 Received 21.8.28

BRIEF ABSTRACT OF LETTER.

In reply to this office memo No. 1000/Ka dt. 11 August 13 PPr states that the order of the 1st decree has been sent to D.C. Kadur. He PPr forwards his opinion as regards Government interest.

NOTES AND ORDERS.

In O.S. 8 of 23-24 (Sub Court Shimoga) it was clear from the returns submitted by the PPr, that the decree was passed in favour of the D.C. Kadur on 25-6-28 whereby the suit was decreed only against [illegible] in respect of the Schedule properties & that it was held that the 3rd defts

one [illegible] parties is precluded from questioning the admitted trust.

Even if it should be contended that such a contention is permissible, the fact that there [illegible] the Trust and the conduct of the parties at [illegible] trust takes away all the force from the [illegible]. It was contended that clause 6 of the agreement namely the weekly remittance to the Government was not enforced. As I shall explain presently that clause was strictly forced. But even on the hypothesis that the weekly remittance was not enforced, that would be only a default of the trustee which surely cannot undo the trust. That would otherwise be a premium on default if the acknowledged legal liability of a party as a trustee can be set aside by his own default. As a matter of fact, there were weekly cables of remittances from the London office of the [illegible] Co. to the Director every week. It was the accused himself that made arrangements with the bankers for transfer of sandal oil collections from the agent's account to the Government account once a week vide P.66 dated 6-9-23 . In view of the fact that the agents had to meet out of pocket expenses and were entitled to retain commission round sums were being transferred once every week from the agents account to the Government account and the very last penny due to the Government was not remitted to the Government account. Even here it was due to the default of the agents. The Director repeatedly insisted upon weekly statements of the amounts collected from customers vide Exhibit P.40, P.39 etc., for the strict enforcement of clause 6 of the agreement and even though the agents were in possession of the information called for evaded furnishing the information or furnished them so late that it could not be made to serve the required purpose. In any case the system of weekly remittances of round sums amounted to a compliance with the provisions of clause 6 of the agreement in substance and in fact I therefore hold that in the face of the express acknowledgment of the Trust and of the conduct of the parties all these years on the basis of

of such trust, the contention that there was no trust cannot be upheld.

Another contention raised against the trust is that there was no privity of contract between the buyer and the Government, that no moneys were ever from the buyers to the Government and that the sandal oil collections cannot be considered to be a debt due by the agents to Government and so as a trust property. It is true that [illegible] of the Indian contract Act the fact that the principal is resident abroad, and that the principal is unascertained, and that the agent was allowed to trade on his own account does affect the relation between the principal and the buyer in so far as there is no privity of contract between them. But the point to be remembered is that there is no warrant for the position that such a circumstance can affect the legal relationship between principal and agent or the measure of the rights and and liabilities between them. I have referred to this aspect already in connection with the question of agency and shall proceed to refer to the decided cases on this point.

Dwarkadas VS. Emperor. A.I.R.1928 Bombay 581 referred to a case where certain goods were entrusted to the accused and under the contract between him and the complainant he had to sell those goods and obtain money for them which he would hold on account of the complainant subject to certain charges. It was held that " when he received that money although he did not receive it actually from the complainant he was 'entrusted with it' within the meaning of the definition." In Balthasar VS Emperor 41 . Cal.844 their lordships did not lay down that Section 405 I.P.C. did not cover misappropriation of the sale proceeds of property entrusted to a person as the misleading head-note states. On the other-hand their lordships said " we think it ought to be assumed that the word property includes furniture or the value thereof, namely, the sale proceeds". Krishnamachari VS Shaw Wallace & Co.. no

Madras 877 relates to a misappropriation of the sale-proceeds of oil entrusted to the accused. The case reported in A.I.R. Lahore 385 refers to a transaction by an apparent owner for an undisclosed principal. In that case a Municipal Committee handed over bonds for sale to the American National Bank for sale endorsing it in their favor. The arrangement was that the bonds should be sold for their market value and the proceeds remitted to the Municipal Committee. Their Lordships held that 'the endorsement on the bond by the Municipal Committee in favor of the Bank was merely to facilitate disposal. The property in the bond as between the Municipal Committee and the Bank was still retained by the Municipal Committee and did not vest in the Bank'. This is a very important decision in support of the view that where a person authorises his agent to sell as ostensible owner the property as between the principal and the agent vests in the principal. When the agent company was entrusted with oil as selling agent on the stipulation that the sale - proceeds would be received on behalf of Government to be credited to their account there can be no doubt that the sale-proceeds were entrusted to the Essenflour Products Co. The selling agent is only temporarily invested with the ostensible indicia of title to facilitate sale on the understanding that the property in the oil as between principal and agent still vests with the principal.

The Agency accounts.

Clause 5 of the agreement referred to above required the agents the agents to maintain certain accounts. These accounts were maintained in the Mysore head office of the Essenflour Products Co., on the basis of (1) the invoices issued by the London branch to customers duplicates of which were received by the head office from the London branch and (2) the weekly statements of the Essenflour sandal oil account received from Messrs. Coutts & Co. The invoices furnished the information regarding sales and the banker's weekly statement the collections from customers, the remittances to the Government account

account and the withdrawals by the London branch. The sandal oil accounts were maintained in the Essenflour Co's office as a separate department distinct from the account-books of the Essenflour Co's other business. The account-books relating to the sandal oil agency were 1. Stock-book of oil. 2. Sandal oil journal. 3. Sandal oil ledger. 4. Columnar ledger and Personal ledger. The monthly statements furnished to the Director as required by the agreement were. 1. Sales report relating to the stock of oil. 2. Account sales showing sales to individual customers, deductions of commission and expenses due to the agents, remittances to the Government and the net balance due to the Government at the end of each month. 3. a summary of carriage, insurance and freight charges debited to Government. In addition to these a statement of collections from individual customers was also being sent but only very irregularly in spite of repeated reminders of the Director. An annual statement of outstandings due from customers was also being sent irregularly.

The Essenflour Products Co., and the two other allied concerns maintained the usual set of account-books namely a cash-book, a journal, a ledger and a Personal ledger. The accounts of the London Branch of the Essenflour Products Co., were received from Mr. Movlankar once every half-year. These accounts showed the same intermingling of funds due to the same causes as in the head office accounts and the promiscuous scraping together of the funds of the several companies to meet huge drafts etc. Drafts were drawn for very large amounts at a time so large in fact that it was impossible to meet them from the assets of any one of these companies in London. This led to remittances of the combined resources which were utilised at this end for the purposes of any or all these concerns. Mr. Movlankar, the Foreign correspondent in the London Branch combined in himself the same multiplicity of representation as Mr. Sitaramachar at this end in the head office represented the management of several concerns. These accounts of the London branch are incorporated into the General accounts of the

Rosenblum Products Co., when they are received. The system

of accounting was agreed to by P.W. S . Accountant K.T.Banks

Withdrawals of [illegible] and collections.

According to [illegible] of the agreement the agents were [illegible] to appropri[illegible] their commission and expenses before crediting the net amounts due to Government. Exhibit P 66 dated 6-9-23 shows that the Essenflour-sandal oil account was opened solely for the sandal oil agency business and all these years the transactions of this account related solely to sandal oil funds. Transfers to the Government account were made every week under instructions from the Foreign Correspondent in the London Office of the Essenflour Company. The Agents had to draw their commissions and expenses from their sandal oil account. The method adopted for drawing such moneys according to the evidence of P.W 2 Sundara Rao was drawing drafts on the Foreign Correspondent to [illegible] be met from the sandal oil funds or by obtaining remittances by telegraphic transfer to the Mysore Bank. from the sandal oil funds. All such withdrawals appeared in the weekly statements of Messrs. Coutts & Co., and in the half-yearly accounts of the London Branch of the Essenflour Co., and these were duly entered in the sandal oil accounts and the Essenflour general accounts respectively. All these five years every withdrawal from the sandal oil account by the Foreign - Correspondent for meeting the draft s of the Essenflour Products Co., or for telegraphic remittances to them have been systematically accepted by the Essenflour Co's head office as payments to and receipts from Mavlankar without any demur.

It was Mr. Seetharamachar himself that guaranteed to the Essenflour Co., that Mr. Mavlankar would not draw from the account and also that he had instructed Coutts & Co., also to that effect (Exhibit P.74) He was therefore only too well aware that Mr. Mavlankar should not withdraw moneys except for and with the approval of the Essenflour Co. As Managing Director he was the person in charge of the funds of the Essenflour Co., and he was also aware that the Governing Director was opposed to Mavlankar handling moneys Exhibits P.73 and P.331 . It was the - most important and fundamental duty of the Managing Director to watch and control the operations on the sandal oil account. He was opening the foreign Tappal and referring the bankers' weekly statements and Mavlankear's half-yearly statements to the office with suitable instructions. Exhibits P.516 & P.531 show that he was also scrutinising

them

course or dealing between them all these five years clearly establishes that there was an understanding between the Managing Director and Mr. Mavlankar about these withdrawals on behalf of the Essenflour Products Co. There were only two items of interception of sandal oil collections on behalf of Essenflour and even these were duly entered in the half-yearly account of Mr. Mavlankar and also incorporated in the annual accounts of the Essenflour Products Co., though one of them was suppressed by a later reversal entry.

These withdrawals and interceptions on b ehalf of the Essenflour Co., were all openly entered in the accounts and are altogether distinct from the misappropriations of Mavlankar for his own benefit which were all interceptions not communicated to the Essenflour Co's head office for the obvious reason that the office would come to know of it. I have stated above how the course of dealings between the parties as shown by the accounts obviously suggests an understanding between them in the matter of the withdrawals. In this case however there is direct and positive evidence of such an understanding between Messrs. Seetharamachar and Mavlankar in respect of these withdrawals not to speak of the admissions of the accused in his confidential letters. Mavlankar deposed that there were general instructions which Mr. Seetharamachar had given to him in London that whenever Mavlankar was short of funds to meet the drafts of the Essenflour Products Co., he might draw moneys from the sandal oil account and that he had confirmed the receipt of these instructions in a letter to Mr. Seetharamachar and this letter is Exhibit P.709. In that letter Mr. Mavlankar has written as follows:-

> " When you left, you will remember you had told me that in case any difficulty arose about meeting Essenflour's draft, and I had no money either of my own or Essenflour's to meet that draft I should draw upon the money from Essenflour's account for sandal wood oil?

dddd ' from ' when ' to ' is meant and in spite of for instead of ' (vide Exhibits P. 516 & 525) slips in spelling in the writing of Mr. Rice can argue nothing. The prosecution seemed contended with - Mavlankar's admission that he had received such instructions and that he had confirmed the receipt of the instructions in a letter. In cro examination these facts were challenged on 13-8-29 and Mavlankar was asked in cross-examination whether he made any attempt to search for the letter when he handed over the papers to Mr. Rice or letter. Mr. Mavlankar stated that he remembered that the letter was in his file of letters with the Police. The learned Government Advocate also remembered having seen the letter. Then in the interests of justice the prosecution was asked by the Court to trace and produce the letter. The letter was traced and put in re-examination of the witness on the very next day i.e., 14-8-29. There can thus be no reason to suspect its genuineness which has been deposed to by the author of the letter. Mr. Mavlankar also identified Mr. Rice's handwriting thereupon. When the existence of a document is challenged in cross-examination it was not ... late for the prosecution to prove its existence in re-examination. Such a letter was casually referred to by the witness in his examination on 6-6-1929.

On the other hand there is abundant proof of its genuiness. One has only to read this letter of 6 pages to be satisfied that it is - genuine and that it represented the actual thoughts of the writer on the date of the letter. It is impossible to fabricate a letter so full of circumstantial details not known to the prosecution and all to prove one sentence in it. As a matter of fact it states that - £3,000 was withdrawn to pay the debt due to Mavlankar while the prosecution case is that it was withdrawn to meet a draft. There are two other documents in this case which confirm the truth and genuineness of the contents of this letter Exhibit P.709. Exhibit D.63 is a letter from Mr. Sitharamachar to Mr. Cox dated 12-1-25 asking for accommodation to the extent of £5,000. The ostensible excuse put forward for the loan was to enable Mavlankar to meet an alleged draft

There was no draft for £6,000 then pending besides P.334 (1) which matured only in April 1925. It is only too obvious that Mr. Seetharamachar could not have referred to this draft in D.63 as it was barely 25 days since the draft, payable 3 months and three weeks thereafter, was issued. There was no occasion for nervousness on 12-1-25 to raise a loan under humiliating conditions of Exhibit D. 63 to provide funds to meet a draft maturing three months later. On the other hand the real purpose of the loan was to remit moneys to Mavlankar to recoup the monies misappropriated. In Exhibit P.31 dated 17th January 1925 the Director pointed out that the amount was overdue for 6 months and hence was at the danger-point for the Agents (column 10 of clause the agreement) That was the occasion for nervousness and a loan on any conditions. This letter Exhibit D.63 practically repeated the subject-matter of Exhibit P.709 a little briefly . The three important points in Exhibit 709 set forth by Mr. Mavlankar were that the sales of essential oils till December 1924 would not raise the - amount of £5,000, that Mavlankar's financial commitments in December 1924 did not permit of his finding the money from his own funds and that a remittance of £5,000might be made to him by drawing a draft, discounting it and remitting the proceeds by telegraphi In Exhibit D.63 written by Mr. Seetharamachar to Mr. Cox about a fortnight after the receipt of Exhibit P.709 we find the same three points in the letter namely (1) ' the total realisations of sales of oils in London is not sufficient to cover the draft' (draft is a euphism as stated already) (2) ' Mr. Mavlankar's committments are such that he is not in a position to make up the balance" and (3) " I have to remit about £5,000 to him. This I cannot do for fear that the Bank of Mysore will think that we are drawing on each other with a view to get more credit than we are entitled to. It is impossible for Mr. Seetharamachar in Mysore to have any idea of the realisations from essential oils or of the personal financial committments of Mr. Mavlankar in Dec ember 1924 except through a letter like Exhibit P.709.

There is yet another circumstance. In Exhibit P.32 dated 21-1-25 Mr. Seetharamachar admitted to the Director in an evasive sort of way that from some of the correspondence he found that the amount due from F. Astier £6,101-13-4 was recovered. This was in answer to the

Director's letter P.31 of 17-1-25 calling for explanation as to why amount was allowed to be over due for 6 months. In the previous letter P 30 of 27-11-24 Mr. Sitharamachar admitted that the amount was unrecovered. It is thus obvious that between 27-11-24 and 21-1-25 Mr. Sitharamachar received intimation from Mr. Navlekar that the amount due from P. Astier named, [illegible] was recovered and Exhibit P.709 falls in this interval. In these circumstances there is no reason to doubt Exhibit P.709. In the light of all this evidence and the course of dealing between the parties I find it established that Mr. Seetharamachar authorised the free utilisation of sundal [illegible] moneys to meet the drafts and demands of the Association Ltd. On.

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Serial No.

properties were not liable for the debt.

4) The PPr. was written to send the copies of the Jmpt & decree & also his opinion as regards the advisability of preferring an appeal. In reply the PP states that the copies have been sent to the D Kadiri who has been requested by the PP. to send them to this office.

3) The PPr has sent a copy of the opinion he has given to the D.C. He considers that it is a fit case for appeal, but that if the decree amount of over Rs 50000/- can be recovered from the items 1-14 execution may be taken without having recourse to any appeal.

4) Copies of the Jmpt & decree from the DC may be awaited.

Submitted to L. R.

DRY
22/8/28

~~Note to be to send the Jmpt &c~~

8.9.
22/8

Draft submitted

DRY
23.8.28

Letter No P. 1250 dated 23.8.28 to D.C. Kadiri requesting him to forward the

3. Letter No A 1137-26 dated 24th August 1928 from D.C. Tumkur forwarding copies of suit & decree.

) The facts of the case are shortly as follows:—

Seetharamasasty (No1) who was the manager of an undivided Hindu family, borrowed Rs 2500/- from the Trustees of Sree Rudreya Srinivaswamy Swami Temple of Kippa village for family necessity & executed a registered hypothecation bond dated 7-4-1885 in favour of D.C. Kadur, who filed a suit O.S. 503-04 on the file of the Chikmagalur Subordinate for recovery of the amount, against Devarasasty, brother of Seetharamasasty (then deceased) & obtain a decree. On 23-4-1917, in satisfaction of this decree debt, Srinivasa Sasty (1st deft) & brother of Seetharamasasty, his nephew Narasimhasasty & Mahabalayya father of Gowramma (minor) & of the grandson of Seetharamasasty (No1), who also named Seetharamasty (No2), executed the hypothecation bond for Rs 4500/- agreeing to discharge the debt by instalments. Having failed to do so, the present suit was filed in the Srinivasa - The 3rd deft Gowramma who, then was a major raised the contention that ~~she was not~~ the properties items 15 to 25 were not liable for the suit debt on the following grounds

1) Denial of Exe

NOTE—Contn. Sheet.

WD 01734—GPB—30,000—15-4-28

General and Revenue Secretariat. File No. 13 of 1924.

Serial No.

2) that her husband was a
such his properties are not liable for the debt
3) that these properties were the self acquisition
of her husband & as such Mahabalayya had
no power to hypothecate them for family
The Sub-Judge has held against the 3rd deft on
the first two grounds, but in favor here for
on the 3rd, the reason being that since the
properties were gifted away to her husband
Mahabalayya & Venkatakrishnamma (Exhibit III)
& there was no evidence to show that they were
into the hotchpot, Mahabalayya as guardian of
had no authority to mortgage these properties
a debt due by the family.

4) The PPr is of opinion that this was a
Case made out for the 3rd deft & that he
had no opportunity to meet it. In the above
copies of pleadings in the case, it is not
to say anything on this part of the case. It
clear from the Suit itself that she did not
plead the gift in favour of her husband in the
written statement, & no issue is framed on
point.

5) The PPr in his opinion gives to the
that in case the full decree amount Cannot be real
from the properties shown in Exh 4, the
appealing may be dropped. The

NOTE—Contn. Sheet.

WD 01714—GPE—30,000—18-4-28

General and Revenue Secretariat.

Law File No. 23 of 1928

Serial No.	
	from his opinion on this matter - Since there is time till about the 15th of October. for preferring the appeal, D.C. may be requested to state his opinion as regards the value of prop items 1 to 14 - Draft put up for approval. MP 28/8/28 (11) Submitted to D.K. for orders.
	appd 28/8 (12) Issued 29/8/28
24	To the Dy Comm Kadur Dt Rop 1366 Dt 29-8-28 Requesting to state whether the judgment as well as Costs of execution can be recovered from a Sale of the Properties items 1-14 of the Schedule etc
Issue MP 21/9/28	25 From the Dy Comm Kadur Dt. No A5-1137-26 Dt 31-8-28 States that the Public Prosecutor Shimoga has been addressed in the matter and that a further report will be made on receipt of the report called for and also requests to return the Copy of the Judgment sent with his letter Dt 24-8-28 (13) Submitted for perusal Further report promised when the

General and Revenue Secretariat.

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Serial No.

awaited

14) Subd with a draft returning the Copy of the judgment.

4/9/28 5/9

15) Issue attnd & resubmit.

5/9

ISSUE & RESUBMIT.

6 To

The Dy Comr Kadur &c

NOP 1466 Dy 5-9-28

Returns the Copy of the judgment and the decree as called for

Subd with ref to para 15 supra.

The further report promised by the Dy Comr with be awaited.

5/9 5/9

5/9

Dy C. may be asked to expedite the report as the time for preferring an appeal expires on 15-10-28.

6/9

Draft put up

Draft 6/9

Issue 7/9

Issued 1487 Dy 7/9/28

General and Revenue Secretariat. Law File No. 23 of 1928.

Serial No.	
8	letter no: A5 - 1137 - 26 dated 11th September, from the D.C. Kadur intimating that the PPr Shimoga has been requested to send a memo of appeal for transmission to G., for filing an appeal -
	Under rule 109 of the Legal affairs Rule it is the Secretary, Law Department that should submit the opinion as to the advisability of an ap and obtain orders of Govt thereon - Under read with 110 shows that the ~~responsibility to the~~ grounds of appeal ought to be prepar by the G.A when the appeal is to the Chief Cor
	Since however the D.C promises to take furth action in the matter on receipt of the draft memorandum of appeal from the P.P., Such action may be awaited -
	BDP

Letter No A-5/1131-26 dated 29-9-28
from D.C. Kadur forwarding PA's draft
of a memo of appeal for preferring
Govt from Decree in O.S. No. 11 of
Sub CR Shimoga -

Facts of the case are explained in
paras 8 to 11 above - Since the
said properties items 1 to 4 may be not sufficient
to satisfy the full decree amount and as the
3rd deft has been allowed to put up an entirely
new case at the appeal may be
preferred to the Chief Court & draft is
is herewith put up.

5 OCT. 1928
No. 2267

L.R.)

2-10-28

The appeal may be filed
1st Nov
Thro Govt Pleader

5/10
PPV.

5/10/28

No. 60
Encl. 1.

SHIMOGA,

Date 19th August, *1928*.

Law 23-28-1

From

N. SESHA SASTRI, ESQ., B. A., B. L.,
Public Prosecutor,
SHIMOGA DIVISION.

To

The Secretary to Government,
Law Department, Bangalore.

Sir,

With reference to your letter No. J 1008/Law dated Bangalore 11/13th. August, 1928, asking me to forward at an early date a copy of the judgment in O.S. 8/23-24 on the file of the Subordinate Judge, Shimoga to gether with my opinion as to the advisibility of preferring an appeal therefrom, I have the honor to state that I have sent a certified copy of the judgment and decree in the case to the Deputy Commissioner, Kadur District. I have this day written to him to send you the copy of the judgment in the case. I

I have herewith enclosed a copy of my opinion about the advisibility of preferring an appeal which I sent to the Deputy Commissioner, Kadur District,

I have the honor to be,
Sir,
Your most obedient servant,
N. Seshasastri
Public Prosecutor, Shimoga Division.

Copy of letter No. Camp H dated(Camp) Chitaldroog the 2nd.August, 1928 from the Public Prosecutor, Shimoga Division to the Deputy Commissioner, Kadur District.

"" Subject:. Decree on O.S. 8/23-24 on the file of the Subordinate Judge , Shimoga. (Kigga Temple Vs Hedse Sreenivasa Sastri Etc)

In continuation of my previous letter on the subject, I have the honor to state that a certified copy of judgment and decree passed in the case are enclosed for kind perusal. It will be seen from the decree that for the suit amount, interest and costs (Rs 9051-6-0), items 1 to 14 of the plaint schedule properties are made liable and that the remaining items Viz., 15-25 are exempted from liability, the learned Subordinate Judge holding that they are the exclusive properties of the 3rd. defendant Gowramma and are not liable to satisfy the suit debt. In my humble opinion, the Subordinate Judge is in error in this respect. The said defendant did not plead in her written statement that these items were hers; there was no issue on this point and we had no opportunity to meet this case. Notwithstanding all this, a practically new case has been made out by the Court and decision given in her favor without giving us an opportunity to rebut that case. I therefore think that this is a good case for appeal. In case the full amount of Rs 9000/- and odd can be recovered from the 14 items now made liable, the matter of appealing may be dropped and steps in execution only need be taken. If however the above security is insufficient, I think it desirable to take the matter in appeal to the Chief Court"

" C O P Y "

SUBJECT.....

.....

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Section Rev.

Diary No. of letter replied to.....

File No. 23.28

Serial No. 2

No. 1250

General and Revenue Secretariat

( )

the *192*

To The Deputy Commissioner
Kadur.

Date of issue 23/8/28

Signed by WWS

Sir,

I am directed to request you to forward attested ~~Copy~~ Certified copies of the Judgment and decree passed in O.S. 8 of 28-29 on the file of the Sabordinate Judge, Shimoga ~~dated~~ on 25th June 1928, which are reported ~~to be heard~~ to have been sent to you by the Public Prosecutor Shimoga, with his letter no Cr. H. Dy 2-8-28 ~~together with his opinion as to the advisability of preferring an appeal therefrom~~

I have e

List of enclosures.....

Copied by .....

Examined by .....

over

for Secy to Govt

D. C. 1.
No. A.5.1137-26.
ENC. copy of judgment

4 7572

OFFICE OF THE DEPUTY COMMISSIONER,
KADUR DISTRICT.

Dated Chikmagalur, 24th August 1928.

FROM H. V. Ramaswami, Esq., M.A., B.L.,
DEPUTY COMMISSIONER,
KADUR DISTRICT.

To

B. Nagappa, Esq., Bar-at-Law,
Secretary to Government of Mysore,
Law Department, Bangalore.

Sir,

I have the honor to submit herewith the copy of Judgment in O.S.No. 8/23-24 of Subordinate Judge's Court Shimoga (Kigga Temple vs. Hedase Srinivasa Shastry and others) as desired by the Public Prosecutor, Shimoga Division, in his No. 61 dated 20-8-1928 and to request that the same may kindly be caused to be returned when done with.

I have the honor to be,
Sir,
Your most obedient servant,

H. V. Ramaswami

Deputy Commissioner,
Kadur District.

A. & P. F. VI. Gl]

SUBJECT.....

.....

.....

Section Incm

File No. 23-28

Serial No. 24

Diary No. of letter replied to.....

No. P 1306

General and Revenue Secretariat

( )

the *192*

To The Deputy Commissioner
Kadur.

Date of issue 29-8-28

Signed by Jun N Sitaramaiengar

Sir,

With reference to your letter No. A-5. 1137-26 dated 24th August 1928, forwarding Copy of the Judgment & decree in O.S. 8 of 23.24 on the file of the Subordinate Judge, Shimoga, I am directed to request you to state whether the full decree amount as well as Costs of execution can be recovered from a sale of the properties items 1 to 4

List of enclosures.....

Copied by Jug 29/8

Examined by .....

over

WD0925—GPB—30,000—26-5-27

the Schedule. As otherwise
an appeal has to be filed
~~within~~ within ninety days
from the date of the decree
viz 25th June 1928, I am to
request you to treat the
matter as very urgent.

I have etc

P.T.
Legal Asst
for Secy to Govt

No.A5-1137-26.

Office of the Deputy Commissioner.
Kadur District.

Chikmagalur, Dated...31st August 1928.

Law 2

From

H. V. Ramaswami, Esq., M.A., B.L.,
DEPUTY COMMISSIONER,
KADUR DISTRICT.

To

B. Nagappa, Esq., Bar-at-Law.,
SECRETARY TO THE GOVERNMENT OF
HIS HIGHNESS THE MAHARAJA OF MYSORE,
.....LAW..... DEPARTMENT,
BANGALORE.

Law

With reference to your letter No. P. 1306/~~Loans~~ 23-28 of ~~yesterday's date~~ 31st August 1928 requesting to intimate if the full decree amount as well as cost of execution could be recovered from a sale of the properties- items 1 to 1 of the Schedule in O.S. No. 8 of 1923-24 on the file of the Sub-Court, -- Shimoga, (Kigga temple Vs. Hedase Srinivasa Sastri and others), I have the honor to state that the Public Prosecutor, Shimoga, has been addressed to furnish the required information urgently, and also to take immediate steps for preferring an appeal if the said properties are insufficient security for fully realising the amounts due. A further report in this matter will be submitted on receipt of reply from the Public Prosecutor.

2. I request that the copy of Judgment and Decree in the case forwarded under cover of my letter No. A5-1137-26 dated 24th August 1928, may kindly be caused to be returned to this office for reference very early for further action being taken in the matter.

I have the honour to be.

Sir,

Your most obedient servant

APP. F. VI. Gl.]

SUBJECT.....

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Diary No. of letter replied to.....

ISSUE & RESUBMIT.

General and Revenue Secretariat

( )

the 192

Date of issue 5/9/28

Signed by M N S

In O.S. no 891/23-24 on the file of the Hon'ble Court, Kurunegala re Ishaque Sumsudeen & others

Section Law

File No. 23-28

Seria No. A 6

No. 1466 Records

To The Dy Comm Kadugannawa

Sc.

I am directed to forward herewith the Copy of Judgment and Decree, received with your letter No A 5-1137-26 Dy 24th Aug 1928, as requested in your letter No A5-1137-26 dated 31st Aug 1928.

I have etc

for Hon Law Secy to Govt

4/9/28

List of enclosures.....

Copied by.....

Examined by.....

over

WD 0562—GPB—31,000—17-8-25

APP. F. VI. Gl.]

SUBJECT.....

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Diary No. of letter replied to.....

General and Revenue Secretariat
( )
the 192

Date of issue...7...9...25

Signed by...

List of enclosures.....

Copied by.....

Examined by.....

Section Land
File No. 23-28
Seria No.
No. P 1467

To The Deputy Commissioner
Kadur District.

Sir,

In Continuation of this office
No: P1466/Land 23-28.6 dated
5th September 1928 returning the
Copy of the Judgment and decree
(Kissakeppla v Reduce Srinivasa
in O.S. 8 of 23.24, On the file of the
Sub-Judge's Court, Shimoga, I
am to request you to expediate your
the report as to whether the full
decree amount as well as Costs
of execution could be recovered
from a sale of the properties items 1 to 14
of the plaint schedule, Since

over

WD 0562—GPB—31,000—17-8-25

- the time for preferring an
appeal expires on 15th October 1928.

I have etc

M

for Secy to Govt
Law Dept

MMJ
7.9.28

D.C.4

No. A5-1137-26.

OFFICE OF THE DEPUTY COMMISSIONER,
KADUR DISTRICT.

ENC.

Dated Chikmagalur, 11th Sept 1928

FROM

H. V. Ramasvami, Esq., M.A., B.L.,
Deputy Commissioner,
Kadur District.

B. Nagappa, Esq., Bar-at-Law.,
Secretary to the Government
of His Highness the Maharaja of Mysore,
LAW Dept. *Bangalore.*

With reference to your letter No. P. 1487/Loans.23-28 dated 7-9-1928 calling for a report as to whether the full decree amount as well as cost of execution could be recovered from a sale of the properties -items 1 to 14 of the Schedule in O.S.No.8/23-28 (Kigga temple Vs. Hedase Srinivasa Sastry & others) on the file of Shimoga Sub Judge's Court, I have the honor to state that the Public Prosecu Shimoga having suggested the advisability of filing an appeal agains the decree, to be prepared for the eventuality of the items of the properties now subjected to the decree not proving sufficient securi to realise the full amount due, he has been requested in this office No. A5-1137-26 dated 7-9-1928 to send a memo showing the grounds of appeal to this office for transmission to the Government Advocate fo filing the same in the Chief Court within time. On receipt of the same from him necessary further action will be taken in the matter.

I have the honour to be,

Sir,

Your most obedient servant.

Deputy Commissioner,
Kadur District.

D.C.1.] Immediate

No. A.5. 1137-26.

OFFICE OF THE DEPUTY COMMISSIONER,
KADUR DISTRICT.

ENC. Two files

Dated, Chikmagalur, 29th September 192 8

FROM

H. V. Ramasvami, Esq., M.A.,B.L., Law 25.28-8
Deputy Commissioner,
Kadur District.

To

B. Nagappa, Esq., Bar-at-Law,
Secretary to Government of Mysore,
Law Department, Bangalore.

SIR,

In continuation of No. A.5.1137-26 dated 10-9-1928 in the matter of filing an appeal in the Chief Court against the decree passed in O.S.No. 8/23-24 on the file of the Subordinate Judge, Shimoga (Kigga Temple Vs. Srinivasa Shastry & others), I have the honor to state that the Public Prosecutor has forwarded a memo of main grounds of appeal against the decree of the Lower Court holding that the items of properties Nos. 15 to 25 specified in the plaint-schedue are the self acquired properties of the 3rd defendent Gowramma and not liable for the satisfaction of the suit amount. The Public Prosecutor states that the said defendent did not plead in her written statement that these items of properties were hers and that there was no issue on this point and accordingly no opportunity was given to meet the case and rebut it.

2. As the security may not be sufficient to fully recover the amoun due, I think it is necessary to perfer an appeal against the daid decree in the Chief Court. I accordingly request that you may be so good as to obtain sanction of Government to prefer an appeal in the case and authorise the Government Advocate to conduct it in the Chief Court on behalf of Government.

3. Favour of early orders is solicited as the appeal time expires on the 15th October 1928.

4. Certified copy of Judgment, decree and depositions in the cas

are herewith submitted for reference.

I have the honor to be,
Sir,
Your most obedient servant,

M Appaswamy

Treasury Assistant Commissioner,
For Deputy Commissioner,
Kadur District.
(Absent from Station).

G.R.S. [redacted] G 34]

SUBJECT.....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

Date of issue.... 6/10/28

Signed by.....

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

Section Ka.

File No. 23-28

Serial No. 9

Proceedings of the Government of His Highness the Maharaja of Mysore

Read—

Letter No: A.S.1137-26 dated 29th September 1928 from the Deputy Commissioner, Kadur soliciting sanction of Government to prefer an appeal from the Judgment and decree of the Subordinate Judge of Shimoga, in O.S.8 of 23. (Kigga Temple v Srinivasa Saib & others).

Order Thereon No. J 2080-2/Ka

Sanctioned. The Government Advocate is requested to file the appeal to the Chief Court under Section 96 of the Code of Civil Procedure.

By order &c.,

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

Letter No. A. 5.1137-26 dated 29th September 1928, from the Deputy Commissioner, Kadur soliciting sanction of Government to prefer an appeal from the judgment and decree of the Subordinate Judge of Chikmagalur in O.S. 8 of 23-24 (Kigga Temple Srinivasa Sastri and others).

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O R D E R No. L. 70'80-2/Kadur 23-28-9

Dated Bangalore the 6th October 1928.

Sanctioned. The Government Advocate is requested to file an appeal to the Chief Court under Section 96 of the Code of Civil Procedure in due time.

Narasimhayya
For Secretary to Government
Law Department.

To

The Government Advocate with records.
The Deputy Commissioner, Kadur District.
The Huzrat Commissioner in Mysore.